



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2017 Biennium

<b>Bill #</b>	HB0123	<b>Title:</b>	Generally revise public records laws
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<b>Primary Sponsor:</b>	Jones, Donald W	<b>Status:</b>	As Introduced
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|--|--|--|
| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget        | <input type="checkbox"/> Significant Long-Term Impacts           | <input type="checkbox"/> Dedicated Revenue Form Attached |

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<b>Expenditures:</b>				
General Fund	\$313,519	\$283,063	\$285,770	\$288,519
State Special Revenue Fund	\$17,239	\$16,636	\$16,886	\$17,139
Federal Special Revenue Fund	\$135,698	\$131,012	\$132,977	\$134,972
Other	\$141,208	\$137,346	\$140,055	\$142,774
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue Fund	\$0	\$0	\$0	\$0
Federal Special Revenue Fund	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$140,055	\$142,774
<b>Net Impact-General Fund Balance:</b>	<u>(\$313,519)</u>	<u>(\$283,063)</u>	<u>(\$285,770)</u>	<u>(\$288,519)</u>

**Description of fiscal impact:** HB 123 adds complexity to the existing records management laws which would increase the time requirements and competencies necessary for the designated qualified agency records manager.

**\*\* Costs that could be identified have been reflected in this fiscal note. However, several agencies indicated they could not quantify the fiscal impact of the bill. Additional FTE and funding support would be needed to implement this legislation above the costs reflected above.**

## FISCAL ANALYSIS

### Assumptions:

#### Governor's Office

- To comply with the responsibilities and duties in HB 123, records management must be a primary role for the designated manager. Currently the office does not have any staff members available to dedicate the time and effort toward managing office records to the extent expected by HB 123, and the office would need an

additional 0.50 FTE to oversee records management and staff training for the office. There would be salary and benefits costs, as well as operating costs, associated with the FTE.

2. There will be additional charges from SITSD for the records management system. However, this fiscal note does not include the cost of these charges as they are not known.

**Judicial Branch**

3. The Judicial Branch is unable to estimate the costs related to establishing a records management plan.
4. The number of district court cases and or hearings may increase as a result of this legislation; however, the Judicial Branch is unable to estimate the impact on judicial workload or the fiscal impact. The cumulative impact of such legislation may eventually require additional judicial resources, because court dockets currently are full in many judicial districts throughout the state.

**Department of Justice**

5. Due to the increase in requirements, HB 123 will require the department to add 1.15 FTE dedicated to records compliance, procedures, and policies. The department will also incur costs for ongoing, comprehensive legal review and legal advice to divisions, information technology maintenance, and increases in data storage.

**Department of Natural Resources and Conservation**

6. The department currently accounts for some records management costs, such as physical storage, in existing program budgets. However, as the types of records the state produces continue to become more electronic in nature, the department will need to account for new methods of records management in future biennial budget packages. This could include, but is not limited to, substantially increased costs for electronic records management systems (software, hardware, and data storage costs) and staff time for both the department's records manager and Office of Information Technology staff.
7. Large-scale public information requests and/or data breaches could potentially result in increased time commitments from the department's records manager (up to 75 percent) and a department attorney (up to 25 percent). However, there is no way to specifically quantify the time and resources that would be involved, as both instances are situation-dependent.

**Department of Administration**

8. The department will have additional costs to hire a qualified records manager, which would be added to the Director's Office internal service fund rates. Salary and benefits for a 1.00 FTE would be \$84,592 in FY 2016, inflated 1.5% for each of the following fiscal years. Operating costs are estimated to be \$9,000 for FY 2016, due to office and computer setup costs, and \$6,000 annually for each subsequent year.

**Department of Agriculture**

9. The department anticipates that HB 123 will require additional costs related to the storage of electronic documents but is unable to calculate what these costs will be.

**Montana Department of Commerce**

10. HB 123 would change long term state and local government business processes related to public information. The fiscal impact of the repeal and replacement of these long term statutes are thought to be significant, but they cannot be accurately quantified at this time.

**Montana Department of Labor and Industry**

11. Section 21 of the bill requires that each agency designate a qualified agency records management coordinator. It also requires that each agency ensure that all agency employees receive adequate and ongoing records management training. As a department of approximately 800 employees located in multiple locations across the state, we estimate that an additional .50 FTE would be required to carry out these records management and training duties.
12. Salary and benefits for a .50 Administrative Specialist position (at Band 6) are estimated to cost \$44,716 in FY 2016 and FY 2017. It is anticipated that these costs will increase by approximately 1.5% per year in each of the following years due to inflation. As such, total salary and benefits are estimated to be \$45,387 in FY 2018 and \$46,068 in FY 2019. It is estimated that this new position will require a new office package

(\$1,600), as well as a new laptop (\$1,300), which will be required for travelling to offsite locations. This will be a one-time expenditure of \$2,900 in 2016.

13. This position will serve all divisions within the agency and thus will be located in the Centralized Services Division. The costs associated with the positions will be paid via the division's proprietary rate, and will need to be considered in proprietary rate calculations.
14. The department currently accounts for some records management costs in existing program budgets (such as physical storage). However, as the types of records the state produces continue to become more electronic in nature, the department may need to account for new methods of records management in future biennial budget packages. This could include, but is not limited to, substantially increased costs for electronic records management systems: software, hardware, data storage costs, and staff time for both the DLI records manager and the Technology Services Division (TSD) staff.
15. Data breaches could potentially result in increased time commitments from the department's records manager in addition to the commitments of legal and TSD staff. However, there is no way to specifically quantify the time and resources that would be involved, as both instances are situation-dependent.

**Montana Department of Military Affairs**

16. Currently, the department stores records on campus, so there will be additional costs to store documents with the state record center, estimated at \$7,750 initially with a \$93 annual increase.
17. The department would need to hire a 0.75 FTE at a starting salary of \$26,536. New employee equipment charges of \$2,875 are included in FY 2016 (\$1,600 desk and \$1,275 computer).
18. The complexity of the department's federal and state records filing requirements necessitates an initial training for all employees, with an annual refresher in subsequent years. This would cost \$25,244 for FY 2016 and \$6,311 per year for FY 2017 through FY 2019.
19. The department assumes none of these costs are federally reimbursable across the Master Cooperative Agreement.

**Montana Department of Health and Human Services**

20. Business and Financial Services Division – To meet the revisions and clarification of records management duties as required by this bill would require the need of 1.00 FTE, a business management analyst, at a cost of \$82,688 in personal services each year. This would also require the one time only office and computer set up of \$2,875 in the first year and \$965 annually for phone and network connectivity. The division is funded through a split of 38.80% general funds, 3.30% state special revenue funds, and 57.90% federal funds.
21. Technology Services Division – To meet the increased security and management of electronic records, including archive, retention, retrieval and destruction of such records, would require 2.00 FTE, computer systems analysts, at a cost of \$77,605 each. This would also require the one time only office and computer set up of \$2,875 in the first year and \$965 annually for phone and network connectivity per FTE. The division is funded through a split of 38.62% general funds, 8.83% state special revenue funds, and 52.55% federal funds.

**All Other State Agencies**

22. All other state agencies can absorb duties without additional costs.

	<b><u>FY 2016 Difference</u></b>	<b><u>FY 2017 Difference</u></b>	<b><u>FY 2018 Difference</u></b>	<b><u>FY 2019 Difference</u></b>
<b><u>Fiscal Impact: Governor's Office</u></b>				
FTE	0.50	0.50	0.50	0.50
<b><u>Expenditures:</u></b>				
Personal Services	\$36,197	\$36,921	\$37,659	\$38,412
Operating Expenses	\$3,441	\$566	\$566	\$566
<b>TOTAL Expenditures</b>	<b>\$39,638</b>	<b>\$37,487</b>	<b>\$38,225</b>	<b>\$38,978</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$39,638	\$37,487	\$38,225	\$38,978
<b>TOTAL Funding of Exp.</b>	<b>\$39,638</b>	<b>\$37,487</b>	<b>\$38,225</b>	<b>\$38,978</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Fiscal Impact: Department of Justice</u></b>				
FTE	1.15	1.15	1.15	1.15
<b><u>Expenditures:</u></b>				
Personal Services	\$83,529	\$83,251	\$83,251	\$83,251
Operating Expenses	\$15,893	\$12,445	\$12,445	\$12,445
<b>TOTAL Expenditures</b>	<b>\$99,422</b>	<b>\$95,696</b>	<b>\$95,696</b>	<b>\$95,696</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$99,422	\$95,696	\$95,696	\$95,696
<b>TOTAL Funding of Exp.</b>	<b>\$99,422</b>	<b>\$95,696</b>	<b>\$95,696</b>	<b>\$95,696</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<b><u>Fiscal Impact: Department of Administration</u></b>				
FTE	1.00	1.00	1.00	1.00
<b><u>Expenditures:</u></b>				
Personal Services	\$84,592	\$86,630	\$88,668	\$90,706
Operating Expenses	\$9,000	\$6,000	\$6,000	\$6,000
<b>TOTAL Expenditures</b>	<u>\$93,592</u>	<u>\$92,630</u>	<u>\$94,668</u>	<u>\$96,706</u>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$93,592	\$92,630	\$94,668	\$96,706
<b>TOTAL Funding of Exp.</b>	<u>\$93,592</u>	<u>\$92,630</u>	<u>\$94,668</u>	<u>\$96,706</u>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$94,668	\$96,706
<b>TOTAL Revenues</b>	<u>\$0</u>	<u>\$0</u>	<u>\$94,668</u>	<u>\$96,706</u>
<b><u>Fiscal Impact: Department of Military Affairs</u></b>				
FTE	0.75	0.75	0.75	0.75
<b><u>Expenditures:</u></b>				
Personal Services	\$67,353	\$48,892	\$49,371	\$49,856
Operating Expenses	\$10,625	\$7,843	\$7,936	\$8,029
<b>TOTAL Expenditures</b>	<u>\$77,978</u>	<u>\$56,735</u>	<u>\$57,307</u>	<u>\$57,885</u>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$77,978	\$56,735	\$57,307	\$57,885
<b>TOTAL Funding of Exp.</b>	<u>\$77,978</u>	<u>\$56,735</u>	<u>\$57,307</u>	<u>\$57,885</u>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

	<u>FY 2016</u> <u>Difference</u>	<u>FY 2017</u> <u>Difference</u>	<u>FY 2018</u> <u>Difference</u>	<u>FY 2019</u> <u>Difference</u>
<b><u>Fiscal Impact: Department of Labor and Industry</u></b>				
FTE	0.50	0.50	0.50	0.50
<b><u>Expenditures:</u></b>				
Personal Services	\$44,716	\$44,716	\$45,387	\$46,068
Equipment	\$2,900	\$0	\$0	\$0
<b>TOTAL Expenditures</b>	<b>\$47,616</b>	<b>\$44,716</b>	<b>\$45,387</b>	<b>\$46,068</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$47,616	\$44,716	\$45,387	\$46,068
<b>TOTAL Funding of Exp.</b>	<b>\$47,616</b>	<b>\$44,716</b>	<b>\$45,387</b>	<b>\$46,068</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$45,387	\$46,068
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$45,387</b>	<b>\$46,068</b>
<b><u>Fiscal Impact: Department of Public Health and Human Services</u></b>				
FTE	3.00	3.00	3.00	3.00
<b><u>Expenditures:</u></b>				
Personal Services	\$237,898	\$237,898	\$241,467	\$245,088
Operating Expenses	\$11,520	\$2,895	\$2,938	\$2,983
<b>TOTAL Expenditures</b>	<b>\$249,418</b>	<b>\$240,793</b>	<b>\$244,405</b>	<b>\$248,071</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$96,481	\$93,145	\$94,542	\$95,960
State Special Revenue (02)	\$17,239	\$16,636	\$16,886	\$17,139
Federal Special Revenue (03)	\$135,698	\$131,012	\$132,977	\$134,972
<b>TOTAL Funding of Exp.</b>	<b>\$249,418</b>	<b>\$240,793</b>	<b>\$244,405</b>	<b>\$248,071</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Net Impact to Fund Balance (Revenue minus Funding of Expenditures):**

General Fund (01)	(\$313,519)	(\$283,063)	(\$285,770)	(\$288,519)
State Special Revenue (02)	(\$17,239)	(\$16,636)	(\$16,886)	(\$17,139)
Federal Special Revenue (03)	(\$135,698)	(\$131,012)	(\$132,977)	(\$134,972)
Other	(\$141,208)	(\$137,346)	\$0	\$0

**Technical Notes:****Judicial Branch**

1. In section 2 – Definitions (1) “Constitutional officer” does not list Supreme Court justices.

**Montana Department of Transportation**

2. In the New section 14, the Department of Administration “shall approve all acquisitions of executive branch agency records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods to ensure compatibility with the standards developed under subsection (1).” Depending on how this rule is adopted and implemented, there could be potential costs for the department in acquiring suitable records storage equipment or systems. Also, according to section 12, anything on the state’s highway locations can be used for public information, which means how the department stores and captures data would be subject to section 14.

**Montana Department of Commerce**

3. HB 123 replaces “citizen” in current law (2-6-102, MCA) with “person” in New Section 3(1). This proposed change significantly broadens who would have standing to seek public information from state and local governments, and may include non-natural persons such as corporations and partnerships

**Department of Military Affairs**

4. Depending upon federal requirements, the department could be required to keep two sets of records –one set to satisfy federal records requirements and one set to satisfy the new state records requirements.

**Effect on County or Other Local Revenues or Expenditures:****Judicial Branch**

1. This legislation may increase the number of hearings in Courts of Limited Jurisdiction which are funded by county or local governments.

**Montana Association of Counties**

2. The Montana Association of Counties anticipates additional costs, but they are unable to quantify amounts.

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*Sponsor’s Initials*\_\_\_\_\_  
*Date*\_\_\_\_\_  
*Budget Director’s Initials*\_\_\_\_\_  
*Date*